

ESCROW AGREEMENT

THIS ESCROW AGREEMENT is made and entered into this 20th day of December, 2000, by and among **KNOX PARTNERS, LLC**, a Delaware limited liability company ("Assignee"); the assignee of **RREEF AMERICA L.L.C.**, a Delaware limited liability company ("Buyer"), and **BOEING REALTY CORPORATION**, a California corporation ("Seller") and **CHICAGO TITLE INSURANCE COMPANY** ("Escrow Holder").

RECITALS:

A. Buyer has acquired from Seller that certain real property described as Lots 1 through 6 and 9 through 12 of Tract Map 52172, located in Los Angeles County, California, and commonly known as part of Harbor Gateway Center (hereinafter referred to as the "**Property**");

B. As contemplated under that certain Agreement for Purchase of Real Property and Joint Escrow Instructions, dated October 8, 2002 (the "**Purchase Contract**"), Seller has deposited Six Hundred Thousand Dollars (\$600,000.00) (the "**Escrow Amount**") into an escrow account (the "**Escrow Account**") for the purposes set forth below.

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller, Buyer, and Escrow Holder do hereby covenant and agree as follows:

1. **Defined Terms.** All capitalized terms used in this Escrow Agreement have the meaning given them in the Purchase Contract, unless otherwise indicated.
2. **Funds.** Seller has deposited the Escrow Amount with Escrow Holder. The portion of such amount held by Escrow Holder from time to time is hereinafter called the "**Funds**". By its execution of this Agreement, Escrow Holder acknowledges receipt of the Funds.
3. **Administration of Funds.** Escrow Holder hereby agrees to hold, administer and disburse the Funds pursuant to this Agreement in accordance with written instructions given to it as provided herein, and shall invest the Funds in an interest bearing money-market account at a bank reasonably acceptable to Seller and Buyer, with interest reported under the United States Taxpayer Identification Number of Seller. One-half of the fees or costs associated with the Escrow Account shall be satisfied by using the Funds or otherwise borne by Seller, subject to Seller's review of said fees or costs; the balance shall be paid by Buyer.
4. **Disbursements by Escrow Holder.** Escrow Holder will hold the Funds in Escrow under the provisions of this Agreement and will make disbursements as follows:
 - (a) If Seller fails to perform its obligations under paragraph 9.8 of the Purchase Contract, up to \$300,000 of the Funds (the "**Removal and Deductible Sublimit**") shall be disbursed to Buyer for (i) all actual costs incurred by Buyer to remove any Unknown Hazmat or

Obstructions which Seller has failed to remove as required by paragraph 9.8, or (ii) for payment of any deductible under any environmental insurance policy in favor of Buyer in the event of an insurance claim thereunder before Buyer completes construction of its foundation(s) for Buyer's Improvements. Such disbursements shall be made as follows: Buyer shall submit a request for reimbursement to Escrow Holder, with a copy to Seller, along with copies of reasonable supporting documentation in the event of a request for reimbursement under clause (i) above, or copies of any notice to or correspondence with Buyer's insurer, in the case of a request for reimbursement under clause (ii) above. Unless Seller objects to the disbursement by written notice to Escrow Holder and Buyer within five (5) business days of Buyer's notice, Escrow Holder shall disburse the Funds pursuant to Buyer's request. If Seller does object to the disbursement, Seller and Buyer shall resolve their dispute pursuant to Article 15 of the Purchase Contract. Upon Buyer's completion of the footings and foundations for Buyer's Improvements, any portion of the Removal and Deductible Sublimit that has not been disbursed to Buyer shall be distributed to Seller following three business days' written notice to Buyer and Escrow Holder, unless, within that 3-day period, Buyer submits a sworn statement to Seller and Escrow Holder, stating that Buyer's footings and foundations are not complete. If Buyer does submit such notice, Seller and Buyer shall resolve such dispute pursuant to Article 15 of the Purchase Contract.

- (b) If Seller fails to perform its obligations under paragraph 9.9 of the Purchase Contract, up to \$300,000 of the Funds shall be disbursed to Buyer for all actual costs incurred by Buyer in installing the Pilot Test System in accordance with paragraph 9.9 of the Purchase Contract. Such disbursements shall be made as follows: Buyer shall submit a request for reimbursement to Escrow Holder, with a copy to Seller, along with copies of reasonable supporting documentation of costs incurred by Buyer. Unless Seller objects to the disbursement by written notice to Escrow Holder and Buyer within five (5) business days of Buyer's notice, Escrow Holder shall disburse the Funds pursuant to Buyer's request. If Seller does object to the disbursement, Seller and Buyer shall resolve their dispute pursuant to Article 15 of the Purchase Contract. Upon completion of the Pilot Test System, any portion of the Pilot Test System Sublimit that has not been disbursed to Buyer shall be distributed to Seller following three business days' written notice to Buyer and Escrow Holder, unless, within that 3-day period, Buyer submits a sworn statement to Seller and Escrow Holder, stating that the Pilot Test System is not complete. If Buyer does submit such notice, Seller and Buyer shall resolve such dispute pursuant to Article 15 of the Purchase Contract.

5. **Escrow Holder.** In the absence of bad faith on its part, Escrow Holder may conclusively rely on a notice of instruction that is furnished to Escrow Holder that conforms to requirements of this Agreement. In performing any of its duties hereunder, Escrow Holder shall

not incur any liability to anyone for any damages, losses or expenses except for willful default or breach of trust, and it shall accordingly not incur any such liability with respect to any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for in this Agreement, not only as to its due execution and the validity and effectiveness of its provisions, contained therein, but which the Escrow Holder shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons and to conform with the provisions of this Agreement. Seller and Buyer hereby agree to indemnify and hold harmless Escrow Holder against any and all losses, claims, and counsel fees and disbursements which may be imposed upon Escrow Holder or incurred by Escrow Holder hereunder, except those arising from willful default or breach of trust by Escrow Holder or the performance of its duties hereunder, including any litigation arising from this Agreement or involving the subject matter hereof. Notwithstanding the terms of this Agreement, if only one party makes a demand for payment of the Escrow Amount, the Escrow Agent shall give notice to the other party of such demand. Escrow Agent is authorized and directed to honor such demand unless the other party objects to Escrow Agent in writing within ten (10) days after Escrow Agent's notice to that party.

6. **Term of Agreement.** The term of this Agreement shall commence on the date the Funds were deposited into the Escrow Account and shall expire on the first to occur of (i) disbursement by Escrow Holder of all of the Funds, (ii) the written agreement of the parties hereto; or (iii) December 30, 2004.

7. **Notices.** All notices, requests, demands, tenders and other communications under this Agreement shall be in writing. Any such notice, request, demand, tender or other communications (a) shall be sent either by a nationally recognized commercial courier for next business day delivery, or by United States Mail, certified mail, or return receipt requested, with all postage prepaid, to the address for each party set forth below its execution of this Agreement, and (b) shall be deemed to have been duly given upon the first to occur of (i) receipt (ii) refusal or (iii) first attempted delivery. Any party, by written notice to the others in the manner herein provided, may designate (A) an address different from that set forth in this Agreement and (B) an additional address (for example, without limitation) of a mortgagee.

8. **Counterparts/Facsimile Execution.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but together shall constitute one and the same instrument. This Agreement may be executed by facsimile and each party shall have the right to rely upon a facsimile counterpart signed by any other party to the same extent as if such party had received an original counterpart from the party signing such facsimile counterpart.

9. **Miscellaneous.** This Agreement shall be construed, enforced and interpreted in accordance with the laws of the State of California. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors, legal representatives and assigns. This Agreement may not be amended or modified except by a written instrument executed by all of the parties hereto. In the event that Seller or Buyer is required to enforce the provisions of this Agreement, such party, if it prevails, shall be entitled to receive from the other party all costs and expenses, including, without limitation, reasonable attorneys' fees incurred. Time is of the essence of this Agreement. If any time period by which

any right, option or election provided in this Agreement must be exercised, or by which any act must be performed, expires on a Saturday, Sunday or legal holiday, then such time period shall be extended through the close of business on the next business day (which, for purposes hereof, shall be any day which is not a Saturday, Sunday or legal holiday).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first written above.

SELLER:

BOEING REALTY CORPORATION, a
California corporation,

By: 

Its:

STEPHEN J. BARKER

Name:

DIRECTOR-BUSINESS OPERATIONS

Address for Notices:

15480 Laguna Canyon Road, Ste. 200

Irvine, CA 92618

Attn: Mario Stavale

Fax: (949) 790-1906

(Signatures continued on the next page)

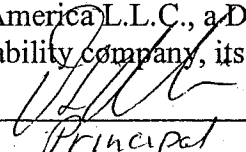
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BUYER:

KNOX PARTNERS, LLC, a Delaware limited liability company,

By: CalSmart, LLC, a Delaware limited liability company, its Manager,

By: RREEF America L.L.C., a Delaware limited liability company, its Manager,

By: 
Its: Principal
Name: Dwight L. Merriman

Address for Notices:

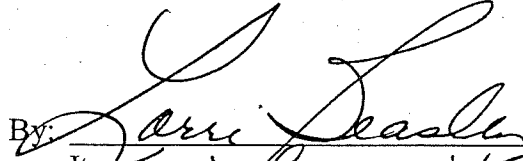
c/o The RREEF Funds
101 California Street, 26th Floor
San Francisco, CA 94111
Attention: Dwight Merriman
Fax: (415) 781-2227

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ESCROW HOLDER:

CHICAGO TITLE ~~INSURANCE~~ COMPANY

By: 
Its: Senior Commercial Escrow Officer
Name: Lorri Beasley

Address for Notices:

Chicago Title Insurance Company
Attn: Lorri Beasley
16969 Von Karman
Irvine, CA 92606
Fax: (949) 752-8043